

MEMO ENDORSED

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Admitted to Practice:
New York
New Jersey
January 22, 2008

Honorable P. Kevin Castel
United States District Judge
500 Pearl Street
New York, New York 10007

Re: Cohen v. Horowitz, et al.
Docket No. 07 Civ 5834 (PKC)

Dear Judge Castel:

I am the attorney for the plaintiff in the above-entitled matter. I respectfully request that the Court modify the Scheduling Order in this case and extend the discovery period.

I have attempted to ascertain whether the attorney for the defendant consents to this application, but have been unsuccessful. On January 17, 2008, I spoke to Jeffrey Buss, Esq., the attorney for the defendant and asked him whether he consented to this application. He told me that he needed to ask his client and that he had a conference scheduled with his client that afternoon. He stated further that he would let me know no later than January 18, 2008. When I did not hear from him by 3:00 P.M. On January 18, 2008, I telephoned his office and left a message on his voicemail. I called his office again on January 21, 2008 and left another voicemail. He has not returned either of my calls.

The reason the extension is necessary is that it appeared that the parties had reached a settlement agreement. However, the settlement was not effectuated. Pursuant to the Scheduling Order, depositions were to be completed by December 28, 2007 and Requests to Admit were to be served no later than January 18, 2008. All fact discovery was to be completed by January 25, 2008.

The parties did not conduct depositions because we believed that the case would settle. Since the case did not settle, I respectfully request an extension of discovery and modification of Scheduling Order.

Honorable P. Kevin Castel
United States District Judge

I will take up the matter at the February conference including whether discovery should be reopened.
SO ORDERED
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I wish to also note that, although disclosure pursuant to F.R.Civ.P. 26(a)(1) was due on October 10, 2007, before we entered into settlement discussions, the defendant has failed to comply with that part of the Court's Scheduling Order.

The date of the Scheduling Order was September 26, 2007. No prior request for extension of the Scheduling Order has been made.

I respectfully request that the Court modify the Scheduling Order to require that defendant provide Rule 26(a)(1) within ten days thereof and that depositions be completed no later than February 29, 2008 and that all fact discovery be completed by March 31, 2008.

Thank you for your attention to this matter.

Respectfully yours,

Solomon Rosengarten

SR:oc

cc: Smith, Buss & Jacobs
(Attn: Jeffrey Buss, Esq.)